

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**In re:  
ZETIA (EZETIMIBE) ANTITRUST  
LITIGATION**

**MDL NO. 2:18md2836**

**ORDER**

On May 22, 2023, Plaintiffs Kaiser Foundation Health Plan, Inc. ("Kaiser"), Humana Inc. ("Humana"), and Centene<sup>1</sup> filed a Motion Seeking Clarification of The Court's Order Dated May 3, 2023, ECF No. 2128, together with a Memorandum in Support, ECF No. 2129; and Plaintiff United Healthcare Services, Inc. ("United Healthcare") filed a Letter Notice to the court regarding the same, ECF No. 2130. On May 3, 2023, the court had directed Plaintiffs United Healthcare, Centene, Humana, and Kaiser (collectively, the "Opt-Out Plaintiffs") to "file a motion to remand their action with the Panel on Multidistrict Litigation within thirty (30) days<sup>2</sup> of this Order," pursuant to Rule 10.1(b)(iii) of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation. ECF No. 2121.

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<sup>1</sup> Plaintiff Centene consists of Centene Corporation, WellCare Health Plans, Inc., New York Quality Healthcare Corporation, and Health Net, LLC (collectively, "Centene").

<sup>2</sup> Thirty (30) days from the date of the court's May 3, 2023, order is Friday, June 2, 2023. See ECF No. 2121.

In response, Plaintiffs Centene, Humana, and Kaiser submit that "remand is premature" at this juncture because pretrial matters "relating to the Vytorin claims," as well as discovery disputes not pursued by the consolidated trial Plaintiffs, have not been resolved by this court. ECF No. 2129 at 2-3. Similarly, in its Letter Notice to the court, Plaintiff United Healthcare noted its intention to "inform the [Panel] that there are certain pretrial matters common to the Opt-Out Plaintiffs' cases that have not yet been resolved." ECF No. 2130 at 1. Plaintiff United Healthcare, however, did not state specifically whether it believes remand is currently premature. See id.


In light of these concerns expressed by the Opt-Out Plaintiffs, the court **STAYS** the May 3, 2023, order, ECF No. 2121, pending further briefing on this matter and a hearing, if necessary. Defendants<sup>3</sup> are **DIRECTED** to state their positions regarding the court's May 3, 2023, order, ECF No. 2121, and the Opt-Out Plaintiffs' responses thereto, ECF Nos. 2128, 2030, within ten (10) days of the date of this Order. Additionally, Plaintiff United Healthcare is **DIRECTED** to clarify whether it formally opposes remand at this juncture, within seven (7) days of the date of this Order.

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<sup>3</sup> Defendants in this case consist of Merck & Co., Inc., Merck Sharp & Dohme Corp., Schering-Plough Corp., Schering Corp., and MSP Singapore Co. LLC (collectively, "Merck"); and Glenmark Pharmaceuticals, Ltd. and Glenmark Pharmaceuticals Inc., USA (collectively, "Glenmark").

The Clerk is **DIRECTED** to send a copy of this Order to counsel for the parties.

IT IS SO ORDERED.

/s/   
Rebecca Beach Smith  
Senior United States District Judge

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REBECCA BEACH SMITH  
SENIOR UNITED STATES DISTRICT JUDGE

May 26, 2023